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WTO Panel Finds Indian Import Restrictions Violate WTO Rules

United States Trade Representative Charlene Barshefsky today announced that a dispute settlement panel of the World Trade Organization has issued a report finding that India's quantitative restrictions on imports violate the WTO Agreement. The panel's final report, which was released today, rejects India's claim that its balance-of-payments situation justifies import restrictions.

Commenting on the panel's decision, Ambassador Barshefsky said, "The panel report confirms that countries must act responsibly in utilizing WTO procedures, such as the balance-of-payments provisions, that restrict access to their markets. It is time for India to adhere to its WTO obligations and open its market by removing these measures. Such measures would stimulate investment, competition, and economic activity in India. I am pleased that the panel has ruled that these restrictions must go."

This panel decision sets several important precedents. It rejects arguments that India has made for many years, such as the argument that BOP measures are immune from review by WTO dispute settlement panels. The decision also makes clear that countries which have instituted restrictions for balance-of-payments purposes must eliminate the restrictions when their balance-of-payments position no longer justifies such measures. The decision also provides market access opportunities in sectors such as agriculture and consumer goods that have been closed to foreign products.

Background

India has restricted or prohibited imports of industrial, textile and agricultural products. India has claimed its extremely restrictive import regime was justified under the balance-of-payments (BOP) provisions of the GATT. India maintains a "Negative List" of products whose imports are banned, unless an importer gets a case-by-case license from the Indian government. The Negative List includes almost all consumer goods, including food, clothing and household appliances. India also channels import s of some agricultural products through state trading monopolies or "canalizing agencies." In addition, a government requirement banning imports by anyone except "actual users" prevents any imports for resale.

The import restrictions challenged by the United States in this case affect consumer goods and other agricultural, textile and petroleum-related products. They are the largest barrier to increasing U.S. exports to India. In addition, the Indian restrictions also particularly hurt trade from India's developing country trading partners, since they shut out developing country products and tropical products which would be very competitive in the Indian market.

Moreover, with respect to India's domestic economic situation, the elimination of this restrictive licensing regime will permit the growth and competition that will raise economic welfare levels and stimulate entrepreneurial activity in the Indian private sector that began with the reforms earlier this decade.

The panel report notes that during India's 1997 consultation with the WTO Balance of Payments Committee, the International Monetary Fund (IMF) stated that India no longer had a balance-of-payments problem that justified these restrictions. After attempts to settle the case through negotiations were unsuccessful, the United States challenged the restrictions before a WTO panel.

The Office of the United States Trade Representative has worked closely during this WTO litigation with officials of the U.S. Departments of Commerce, Agriculture and the Treasury to achieve this result.

The panel report is available on the WTO website at http://www.wto.org.

-30-